

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UNITED STATES,
Plaintiff,**

v.

**FUNDS IN THE AMOUNT OF \$271,080.00,
Defendant.**

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Case No. 13 C 126

Judge Joan B. Gottschall

ORDER

The claimants did not submit evidentiary support regarding the merits of their ownership claim as directed by the court. Accordingly, they have failed to establish that they are entitled to recover the \$271,080 at issue in this case. The government is, therefore, entitled to a judgment of forfeiture in the amount of \$271,080. The clerk is directed to enter judgment accordingly and the status hearing set for November 6, 2014, is stricken. Civil case terminated.

STATEMENT

This case is an *in rem* civil forfeiture action for \$271,080 in cash seized from a safe in a minivan parked in the driveway of a North Chicago residence. The government believes that the funds were used in narcotics trafficking and seeks forfeiture of the funds under 21 U.S.C. § 881(a)(6). Claimants Pedro Cruz-Hernandez and Abraham Cruz-Hernandez argue that they are the rightful owners of the funds and deny that they were involved in any criminal activity relating to the money.

On September 18, 2014, the court denied the government's motion for summary judgment. It also directed the claimants to show cause, by October 9, 2014, why the court should not enter summary judgment in favor of the government on the merits of their ownership claim. The court subsequently granted the claimants' request for an extension of time, until October 30, 2014, to file additional documents in support of their ownership claim. This date has passed but the claimants did not file a response to the court's rule to show cause.

In denying the government's motion for summary judgment, the court stated that it:

... finds it unlikely that the claimants have sufficient evidentiary support to overcome summary judgment on the merits of their claim of ownership. The court orders the claimants to show cause why the court should not grant summary judgment in favor of the government for lack of evidentiary support for their ownership claim. *See Acequia, Inc. v. Prudential Ins. Co. of Am.*, 226 F.3d 798, 807 (7th Cir. 2000) ("A district court is permitted to enter summary judgment sua sponte if the losing party has proper notice that the court is considering granting

summary judgment and the losing party has a fair opportunity to present evidence in opposition.”); *Celotex Corp. v. Catrett*, 477 U.S. 317, 326 (1986) (“[D]istrict courts are widely acknowledged to possess the power to enter summary judgments sua sponte, so long as the losing party was on notice that she had to come forward with all of her evidence.”).

(Dkt. 51 at 10.)

The claimants were afforded an opportunity to submit evidentiary support regarding the merits of their ownership claim. They did not do so. Accordingly, they have failed to establish that they are entitled to recover the \$271,080 at issue in this case. The government is, therefore, entitled to a judgment of forfeiture in the amount of \$271,080.

Date: November 5, 2014

/s/

Joan B. Gottschall
United States District Judge